

REMARKS

This response is submitted in reply to the final Office Action dated September 2, 2005. Claims 1-33 are pending in this application. Claims 7-12, 18, 20, 25, 27-28 and 30-33 are rejected under 35 U.S.C. §102 and Claims 1-6, 13-17, 19, 21-24, 26 and 29 are rejected under 35 U.S.C. §103. In view of the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 7-12, 18, 20, 25, 27-28 and 30-33 are rejected under 35 U.S.C. §102(b) as anticipated by EP 0645095 to Collings et al. ("*Collings*"). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

Independent Claims 7, 18, 20, 25, 28 and 31 recite, in part, a dried pet food with a thickness of at least 12 mm and a density that ranges from about 16.8 lbs/ft³ to about 20 lbs/ft³. Contrary to these claims, *Collings* fails to disclose a dried pet food product having a density within the claimed range. For example, *Collings* discloses a dried pet food packaged in a sealed, air tight, 5" diameter x 8" tall (5 inch x 8 inch) cardboard cylinder canister weighing 500 grams (1.102 lbs) when filled with the dried pet food. See, *Collings*, page 6, lines 10-11. After performing the proper unit conversions, shown immediately below, the calculated density of this dried pet food equals 12.123 lbs/ft³, which is well below the presently claimed range of pet food density.

Density = Mass/Volume

$$\text{Mass} = 500 \text{ grams} = 0.5 \text{ kg} * (2.204 \text{ lbs/kg}) = 1.102 \text{ lbs}$$

$$\text{Volume} = \pi * (\text{radius})^2 * \text{height}$$

$$\text{radius} = \text{diameter}/2 = 2.5 \text{ inches} * (1 \text{ ft}/12 \text{ inches}) = (2.5/12) \text{ ft}$$

$$\text{height} = 8 \text{ inches} * (1 \text{ ft}/12 \text{ inches}) = (2/3) \text{ ft.}$$

$$\text{Volume} = \pi * (2.5/12)^2 \text{ ft}^2 * (2/3) \text{ ft}$$

$$\text{Density} = 1.102 \text{ lbs} / (\pi * (2.5/12)^2 \text{ ft}^2 * (2/3) \text{ ft}) = \underline{12.123 \text{ lbs/ft}^3}$$

Indeed, *Collings* is unconcerned with the density and size of the pet food product to provide a resultant product that can remove more plaque and tartar build-up than similar pet food products. In fact, *Collings* is directed entirely toward an expanded pet food product having

improved resistance to breaking, which teaches away from the presently claimed invention. See, *Collings*, page 2, line 52 and page 5, lines 7-9.

Furthermore, *Collings* fails to disclose, as recited in the instant claims, a dried pet food comprising a thickness of at least 12 mm. While not disclosing a product length and width, *Collings* does disclose an extruded product at 10 mm thickness. See, *Collings*, page 6, lines 1-10. However, this extruded wet product is subsequently dried from 18% moisture to 8.8% final moisture. See, *Collings*, page 6, lines 1-10. Consequently, the extruded product is not a “dried pet food,” as required by the claims. Moreover, when dried, one of ordinary skill in the art would recognize that the thickness would decrease from 10 mm to a thickness likely significantly less than the 12 mm minimum in the instant claims.

For the reasons discussed above, Applicants respectfully submit that Claims 7, 18, 20, 25, 28 and 31 and Claims 8-12, 27, 30 and 32-33 that depend from these claims are novel, nonobvious and distinguishable from the cited reference. Accordingly, Applicants respectfully request that the rejection of Claims 7-12, 18, 20, 25, 27-28 and 30-33 under 35 U.S.C. §102(b) be withdrawn.

In the Office Action, Claims 1-6, 13-17, 19, 21-24, 26 and 29 are rejected under 35 U.S.C. §103 as being unpatentable over *Collings* in view of U.S. Patent No. 5,431,927 to Hand et al. (“*Hand*”). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

Independent Claims 1, 13 and 21 recite, in part, a dried pet food having density that ranges from about 16.8 lbs/ft³ to about 20 lbs/ft³. In contrast, Applicants respectfully submit that one having ordinary skill in the art would not be motivated to combine the cited references to arrive at the present claims. For example, *Collings* is directed toward an unstriated dog food product. *Hand*, by contrast, is directed toward an expanded, striated structural matrix, which teaches away from *Collings* and the product of the present invention, as admitted in the Office Action dated July 30, 2003, page 4.

Moreover, the unstriated product (versus striated) of the present invention, which stems from turbulent rather than laminar flow extrusion, results in a dried pet food having a cellular structure that includes microscopic air pockets. See, Specification, page 8, lines 17-24. Because of the microscopic air pockets of this unstriated dried pet food, the inner surface will have a fine, sandpaper-like appearance and a dense, foam-like structure that is in contrast to a laminar-like

structure. See, Specification, page 8, lines 25-30. This cellular structure improves the tartar reducing properties of the product by applying a mechanical scraping action to the teeth. See, Specification, page 8 line 30 – page 9 line 15.

As further evidence, Applicants have submitted an affidavit under 37 C.F.R. §1.132 (“*Affidavit*” attached hereto as Exhibit A). The *Affidavit* sufficiently and properly evidences that (1) the unstriated appearance and inner cellular structure resulting from a turbulent flow process significantly affects the performance of the claimed pet food as compared to other products of a striated appearance and (2) based on rheological and acoustic testing of the unstriated product of the present invention versus other striated products, these products are clearly different and present different functionalities in terms of dental plaque and tartar reduction. Consequently, one having ordinary skill in the art would not be motivated to combine the cited references because *Hand* explicitly teaches away from *Collings* and the present invention.

For the reasons discussed above, Applicants respectfully submit that the combination of the cited references is improper and thereby fails to render the claimed subject matter obvious.

Accordingly, Applicants respectfully request that the obviousness rejection with respect to Claims 1-6, 13-17, 19, 21-24, 26 and 29 be reconsidered and the rejection be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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